

## OFFICIAL COPY

Fresno, California

October 11, 2005

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Jerry Duncan	Acting Council President
	Henry Perea	Councilmember
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Mike Dages	Council President

Andy Souza, City Manager  
 Hilda Cantu Montoy, City Attorney  
 Becky Klisch, City Clerk  
 Yolanda Salazar, Assistant City Clerk

His Holiness Aram I of the Catholicos of the Great House of Cilicia in Antelias, Lebanon, gave the invocation, and Councilmember Perea led the Pledge of Allegiance.

District 1 Council Aide Sevag Tateosian formally introduced His Holiness Aram I and spoke to his work and accomplishments. His Holiness spoke briefly and Councilmember Boyajian and Mayor Autry commended him for his humanitarian work and accomplishments and presented him with a Key to the City and a gift basket. His Holiness presented his book on the Armenian spiritual heritage to Mayor Autry. A brief recess was held to attend a reception for His Holiness Aram I.

**RECESS - 8:47 A.M. - 9:00 A.M.****PROCLAMATION OF "MULTI-CULTURAL UNITY MONTH" - COUNCILMEMBER STERLING**

Read and presented.

**COMMENDATION TO THE CITY CLERK'S OFFICE FOR RECEIVING THE "CALIFORNIANS AWARE" PLAQUE - COUNCILMEMBER BOYAJIAN**

Commendation made.

**PROCLAMATION OF "UNIVERSAL ACCESS TO PRESCHOOL FOR ALL CHILDREN DAY"**

To be rescheduled.

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**APPROVE MINUTES OF OCTOBER 4, 2005:**

On motion of Councilmember Perea, seconded by Councilmember Westerlund, duly carried, RESOLVED, the minutes of October 4, 2005, approved as submitted.

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**COUNCIL MEMBER REPORTS AND COMMENTS:****REQUEST FOR OPENING DATE OF THE NEW SANTA FE DEPOT(AMTRAK STATION) - COUNCILMEMBER CALHOUN**

Councilmember Calhoun questioned when the new depot would open to sell tickets with City Manager Souza stating he would submit a tray memo to Council this week. Councilmember Calhoun added the public was anxious to use the facility and he was hearing some very negative comments from passengers.

COMMENDATION TO CHIEF DYER AND CAPT. BRIDGES FOR THEIR WORK TO ELIMINATE GANGS FROM THE THIRD STREET/ILLINOIS AVENUE NEIGHBORHOOD - COUNCILMEMER PEREA

Commendation made.

"THANK YOU" TO COUNCILMEMBER BOYAJIAN FOR BRINGING HIS HOLINESS ARAM 1 TO CITY HALL - COUNCILMEMBER STERLING

Commendation made with Councilmember Sterling stating his visit was a great honor for the city of Fresno.

(1) REQUEST TO STAFF TO SCHEDULE MONTHLY UPDATES ON THE AGENDA ON THE FOREST CITY DEVELOPMENT PROJECT, AND (2) THE BIG FRESNO FAIR - PRESIDENT DAGES

(1) Request made, and (2) President Dages encouraged everyone to attend the Big Fresno Fair.

(1) COMMENDATION TO DISTRICT 1 STAFF FOR THEIR WORK IN BRINGING HIS HOLINESS ARAM I TO CITY HALL, AND (2) OCTOBER 22<sup>ND</sup> COMMUNITY CLEAN-UP EVENT - COUNCILMEMBER BOYAJIAN

(1) Commendation made, and (2) Councilmember Boyajian advised of the event stating volunteers including state and local officials would be participating.

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#### **APPROVE AGENDA:**

(1-A) RESOLUTION - 21<sup>ST</sup> AMENDMENT TO AAR 2005-286 APPROPRIATING \$1,196,300 IN THE FISCAL YEAR 2006 BUDGET FOR THE URBAN AREA SECURITY INITIATIVE (UASI) GRANT

Removed from the agenda at the request of staff/to be rescheduled.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes	:	None
Absent	:	None

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#### **ADOPT CONSENT CALENDAR:**

Barbara Hunt, 2475 S. Walnut, spoke in support of Item **1-A** which was removed from the agenda by staff.

Councilmember Westerlund pulled Items **1-E** and **1-I** from the Consent Calendar for consideration at 2:00 p.m.

(1-B) AWARD A CONTRACT FOR CONSTRUCTION OF A BUILDING FOUNDATION FOR THE FEDERAL INSPECTION STATION (FIS) AT THE FRESNO YOSEMITE INTERNATIONAL AIRPORT TO DAVIS MORENO CONSTRUCTION, INC., IN THE AMOUNT OF \$137,851

(1-C) APPROVE AN AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY AND ESCROW INSTRUCTIONS WITH GROVE PARTNERS, LLC, FOR THE EXCHANGE OF LAND NEAR CLINTON AND CORNELIA AVENUES FOR FUTURE DEVELOPMENT OF FIRE STATION NO. 16, AND AUTHORIZE THE DIRECTOR OF PUBLIC WORKS TO SIGN THE AGREEMENT ON BEHALF OF THE CITY AND PROCESS THE TRANSACTION THROUGH ESCROW

**146-108****10/11/05**

**(1-D)** APPROVE ACQUISITION OF A STREET EASEMENT AND USE OF A CONSTRUCTION EASEMENT FROM PROPERTY OWNED BY FARMERS LUMBER AND SUPPLY CO. MONEY PURCHASE PENSION PLAN, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO ACCEPT THE DEED OF EASEMENT FROM THE PROPERTY OWNER, EXECUTE THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY, AND COMPLETE THE ACQUISITION THROUGH ESCROW

**(1-F)** APPROVE AN AMENDMENT TO THE AGREEMENT WITH RABE ENGINEERING, INC., FOR \$42,925, TO PROVIDE PROFESSIONAL ENGINEERING SERVICES FOR THE FRESNO/SIERRA TRAFFIC SIGNAL MODIFICATION AND WIDENING PROJECT AT FRESNO STREET AND SIERRA AVENUE

**(1-G)** APPROVE AMENDMENT TO THE AGREEMENT WITH BOYLE ENGINEERING, INC., FOR \$85,175 FOR DESIGN OF THE CLOVIS ROAD WIDENING PROJECT FROM E. KINGS CANYON TO E. MCKINLEY AVENUE

**(1-H) BILL NO. B-115 - ORDINANCE NO. 2005-118 -** REPEALING A SECTION OF THE FRESNO MUNICIPAL CODE RELATING TO THE SUNSET PROVISION OF THE MOBILE HOME RENT REVIEW AND STABILIZATION ORDINANCE

**(1-J)** APPROVE AN AGREEMENT WITH 2H ENGINEERING IN THE AMOUNT OF \$80,775 WITH A CONTINGENCY OF \$8,975 FOR THE DESIGN OF A FIRE ALARM SYSTEM AT THE CONVENTION CENTER

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes	:	None
Absent	:	None

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**(9:00 A.M.) PUBLIC COMMENT - UNSCHEDULED COMMUNICATION:**

APPEARANCE BY KENNETH WAGNER REGARDING AIRPORT SECURITY AND NEED FOR EMPLOYEES WHO SERVE ALCOHOLIC BEVERAGES TO USE MORE DISCRETION WHEN ASKING FOR IDs FROM PATRONS WHO ARE OBVIOUSLY OVER THE AGE OF 21

Mr. Wagner clarified he was supportive of airport security measures but stated having to show his ID for a third time when he purchased a glass of wine was way too much as he was obviously over 21, advised upon his question he was told the company requires employees to ask for an ID, and questioned where the discretion was on the part of the employees when someone is obviously over 21 and added he was also concerned with Fresno's image. President Dages stated appropriate staff would look into the matter.

APPEARANCE BY BARBARA HUNT (1) THANKING MAYOR AUTRY AND EVERYONE ELSE INVOLVED IN THE MISSION TO HELP RELOCATE HURRICANE VICTIMS TO FRESNO; (2) CONCERN WITH ASSESSMENTS AND ASSESSMENT DISTRICTS; AND (3) NEED FOR COUNCIL TO BE RESPECTFUL OF PEOPLE WHO SPEAK BEFORE COUNCIL

Appearance made.

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Councilmember Boyajian recognized and welcomed the visiting Fresno High School marketing class and instructor Mr. Verduzco and brief discussion ensued.

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**(9:15 A.M.)** APPEARANCE BY JOE ROTHERMEL, REGIONAL SALES MANAGER FOR ABM JANITORIAL, REGARDING COUNCIL'S ACTION OF OCTOBER 4, 2005, APPROVING RESOLUTION NO. 2005-441 ADDING 3 POSITIONS IN THE P & R DEPARTMENT TO ESTABLISH NIGHT PARKS MAINTENANCE/CUSTODIAL CREWS IN CITY PARKS - COUNCILMEMBER DUNCAN

146-109

10/11/05

Councilmember Duncan stated Council's action last week was going to have a great impact on Mr. Rothermel's business and advised he wanted Mr. Rothermel to have an opportunity to address the Council, share his concerns and some inaccurate information he says was included in the staff report, and clarify the record.

Mr. Rothermel acknowledged the city had the right to terminate the contract, stated his staff had done a great job on the mall and his company had a lot of experience in janitorial service, stated there was a discrepancy relative to the number of hours spent per week cleaning the mall and advised his employees were currently spending 230 hours a week cleaning the mall -- 86 hours more than what P & R was proposing, **(2 - 0)** and spoke briefly to the amount spent on cleaning supplies and to security issues, and concluded stating his company was giving the city all the benefits that the department was proposing.

Speaking in support of city employees doing the work and/or to complaints received on the mall's cleanliness were: Irene Frank, city employee; Kendall Simsarian, President of the Downtown Association, 1060 Fulton Mall; Barbara Hunt, 2475 S. Walnut; Richard Poulter, retired city employee; and Marina Magdaleno, employee union representative.

President Dages clarified this was not an action item and the matter was scheduled as an appearance only. Extensive discussion ensued. Councilmember Calhoun stated ABM was not notified of the issue last week and had no opportunity to address the alleged problems, stated a one-sided presentation was given and a major decision was made to add 24 part-time employees and one full time, and upon his question City Attorney Montoy clarified the matter was legally noticed on the agenda pursuant to the Brown Act and the city had the discretion to terminate the contract. Councilmember Calhoun continued and presented questions and comments at length relative to the proposal coming out of nowhere, the company allegedly not performing and not being notified about that, why this was not brought forth during budget and budgeted for, concerns that ABM was not advised of this matter until after the fact, the item was placed on the consent calendar, Council did not have all the facts which might have changed the vote if they had, and complaints heard about part-timers and now 24 more are being added, and the whole process being tainted from the beginning and contracting out making complete sense. City Manager Souza and Parks & Recreation Director Cooper responded to questions and comments throughout. Councilmember Sterling thanked ABM for their work, stated things change and maybe it was just time for a change, advised when she started her council term the first thing downtown merchants asked for was improved mall maintenance and added she has received complaints, and presented questions relative to whether staff has considered hiring employees from ABM, if there will be an exit contract with ABM and a new contract with criteria for the new program, how this plan will increase infrastructure improvements on the mall, if this proposal called for additional funds, if lighting would be improved at Roeding Park and the mall, how this program will impact the bicycle police/security at the mall, and if the city was ready for the integration of city department efforts. Councilmember Sterling commended all involved and requested staff be considerate of those losing their jobs. Councilmember Boyajian spoke briefly to the issue stating the Fulton Mall needed help, city employees were very committed and cared, this proposal was about a little more accountability and stability, he hoped current part-time employees would be brought in full-time, and stated Mr. Cooper was being creative and he appreciated it.

Mr. Rothermel stated he would work with the city and the department to the end to ensure a smooth transition, reiterated the most troubling thing he sees with the proposal is the amount of time budgeted to clean the mall, clarified his company has several experienced employees who make over \$8 an hour, and relative to complaints stated he needed to hear about them as his company could not address them if they don't. There was no further discussion.

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**(10:00 A.M.)** CONTINUED HEARING TO CONSIDER DESIGNATING THE W. D. COATES HOME AT 264 N. VAN NESS AVENUE AND BLACK'S PACKAGE COMPANY (GOTTSCHALK'S SERVICE CENTER) AT 755 VAN NESS AVENUE TO THE LOCAL REGISTER OF HISTORIC RESOURCES

**1. RESOLUTION NO. 2005-446** - DESIGNATING THE W. D. COATES HOME TO THE LOCAL REGISTER

**2. RESOLUTION** - DESIGNATING BLACK'S PACKAGE COMPANY TO THE LOCAL REGISTER (Not Adopted)

President Dages announced the time had arrived to consider the issue and opened the hearing. Councilmember Duncan requested the two properties be voted upon separately. Planning Manager Unruh gave an extensive PowerPoint presentation on the two properties **(3 - 0)** and recommended the resolutions be adopted, all as contained in the staff report as submitted, and advised a corrected resolution for the Coates Home had been distributed earlier.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut; Robby Antoyan, architect for the rehabilitation of Black's

building, who displayed drawings of the proposed floor plan layouts, spoke in support of the designation, and requested Council's approval; and Randy White, owner of the Coates Home, who thanked Council for considering the designation.

**146-110**

**10/11/05**

Upon call, no one else wished to be heard and President Dages closed the hearing.

Councilmember Sterling stated she, Forest City (FC) officials, Black's representatives, staff and the historic preservation commission met and advised FC would conduct a historic survey and extensive EIR of their proposed project's area in which Black's is located, advised what was going to happen to Black's building would be considered during they survey, noted representatives of the old building behind Grizzly Stadium spoke with FC and that facility was going to stay as an historic site however added there had been no other communication from others with FC on other buildings, stated to designate Black's at this time may not work out down the road after the survey and she wanted to hold off on designating Black's until the survey is completed and a final recommendation is received, and made a motion to deny the resolution designating Black's to the local register, which motion was seconded by Councilmember Duncan.

Lengthy discussion ensued on Black's building and the motion. Historic Preservation Manager Hattersley-Drayton responded to questions of Councilmember Westerlund relative to whether there were no tax benefits or code exemptions for properties on the local register, with Councilmember Westerlund requesting written information be submitted to him that states local designations may use the State Historic Building Code. Councilmember Calhoun spoke in opposition to the motion stating Mr. Antoyan brought forth a plan and the motion was unfair, stated it was his understanding when FC presented their plan that they would be cognizant of and respect historic buildings, stated it was also unfair to expect a developer with good intentions to save a building and wait until FC conducts their survey, stated the area was large enough and FC with all their successful projects could well integrate the Black's building into their master plan and they would have a big problem if they could not because there are a lot of other buildings in the area that they will have to deal with, pointed out it was also very possible a deal with FC may not be reached, and stated to send a message to the developer to wait and "stand behind the big boys" was totally unfair and added private sector development was exactly what was wanted and needed downtown. Councilmember Perea stated he strongly agreed with Councilmember Calhoun, stated it seemed to him that the city was so grateful that a company like FC was even willing to look at Fresno that the city was willing to let FC dictate what downtown Fresno was going to look like, stated this was a two-way/give and take process and Council needed to express to FC what they want downtown to look like and elaborated, emphasized there was someone here wanting to develop and rehabilitate a building back to its original look and then turn it into a mix of residential and commercial and that was very commendable, and stated he wanted to see a downtown that was unique and strongly urged Council oppose the motion. Mr. Antoyan and Councilmember Duncan responded to questions of Councilmember Boyajian relative to how long the present owner has owned Black's, amount invested in the property, if the owners have any tenants lined up or coming in, what the projected cost was to rehabilitate the building, how long rehabilitation plans have been in place, and if Councilmember Duncan ever received a response to his request for historic preservation criteria and a study that looks at the big picture instead of property by property. Councilmember Sterling clarified FC was not opposed to the developer remodeling the building and added FC felt the city needed to look at a developer such as them coming in because Fresno had so much history and elaborated. Councilmember Duncan clarified he seconded the motion because he felt Black's did not meet the criteria for a historical designation and it had nothing to do with FC, stated after looking at pictures of the building he understood why a prior Council turned down the designation, stated another concern of his was remodeling the outside only and questioned what "doing the inside later" meant, clarified the owners were entitled to benefits without a city designation because of the age of the building, and stated it was ridiculous to think that bulldozers would go in and tear down the building if it doesn't get the designation and added the project seemed like a good one and encouraged the owners to go forward. President Dages stated he would not support the motion as he did not like the idea of a developer dictating to Council what is going to be done stating Council sets the policy, and noted he also had a concern that not designating the building may pave the way for FC to get rid of it along with more of Fresno's history if they decide they do not want the building. Councilmember Duncan clarified FC was not dictating anything to Council, they were a company known for their willingness to work with historic resources and preserve them, and this was an independent decision and had nothing to do with FC somehow directing the city's policy.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, RESOLVED, the above Resolution (#2) designating the Black's Package Company building to the Local Historic Register denied, by the following vote:

Ayes	:	Boyajian, Duncan, Sterling, Westerlund
Noes	:	Calhoun, Perea, Dages
Absent	:	None

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2005-446 (#1) designating the Coates Home to the Local Historic Register hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

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146-111

10/11/05

**(10:15 A.M.)** HEARING ON REZONE APPLICATION NO. R-05-23 AND ENVIRONMENTAL FINDINGS, FILED BY TEJINDER RANDHAWA, PROPERTY LOCATED ON THE EAST SIDE OF N. MAPLE BETWEEN E. COPPER AND E. INTERNATIONAL AVENUES

**1.** CONSIDER AND ADOPT E.A. NO. R-05-23/C-05-95/TPM 2005-08, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

**2. BILL NO. B-116 - ORDINANCE NO. 2005-119** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-A/UGM TO R-1-B/UGM

**(4 - 0)** President Dages announced the time had arrived to consider the issue and opened the hearing. Planner Bernal gave an overview of the issue, all as contained in the staff report as submitted, and recommended approval.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut; and Becky Frasier, representing the applicant, who stated this action would make the property consistent with the general plan.

Upon call, no one else wished to be heard and President Dages closed the hearing.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the environmental finding for the E.A. dated June 29, 2005, that the project proposal conforms to the provisions of the General Plan MEIR hereby approved, and the above entitled Bill No. B-116 rezoning the subject property adopted as Ordinance No. 2005-119, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

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**(10:20 A.M.)** HEARING ON REZONE APPLICATION NO. R-05-33 AND ENVIRONMENTAL FINDINGS, FILED BY PROVOST AND PRITCHARD, INC., ON BEHALF OF RZR ENTERPRISES, PROPERTY LOCATED ON THE SOUTHWEST CORNER OF E. CHURCH AND S. PEACH AVENUES

**1.** CONSIDER AND ADOPT E.A. NO. R-05-33/T-5436/C-05-110, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

**2. BILL-** AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-1/UGM

President Dages announced the time had arrived to consider the issue and opened the hearing. Planner Bernal gave an overview of the issue, all as contained in the staff report as submitted, and recommended approval.

Barbara Hunt, 2475 S. Walnut, expressed concerns with street boundary/directional issues.

Upon call, no one else wished to be heard.

President Dages advised he had not yet met with the applicant, noted he had made a request that staff notify him when project requests come in, and stated he wanted to table the matter so he could meet with the applicant.

On motion of President Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the 10:20 A.M. Hearing tabled to October 25, 2005, at 10:05 a.m., by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None

Absent : None

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**(10:30 A.M.) HEARING ON REZONE APPLICATION NO. R-04-108 AND ENVIRONMENTAL FINDINGS, FILED BY R. J. HILL HOMES, PROPERTY LOCATED ON THE WEST SIDE OF S. TEMPERANCE BETWEEN E. HAMILTON AND E. THE CALIFORNIA AVENUE ALIGNMENT**

**1. CONSIDER AND ADOPT E.A. NO. R-04-108/T-5464/C-04-325, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR**

**2. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM AE-20/UGM TO R-1/UGM**

**146-112**

**10/11/05**

President Dages announced the time had arrived to consider the issue and opened the hearing. Planning Manager Haro gave an overview of the issue, all as contained in the staff report as submitted, and recommended approval.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, who expressed street boundary/directional concerns; and Susan Gladding, Quad Knopf, representing the applicant, who requested approval.

Upon call, no one else wished to be heard.

President Dages again stated he had not met with anyone on the project and he had requested to meet with folks as he wanted some sort of reasonable plan, concurred there were currently 16 different developers in the southeast and he wanted one to work with another, and made a motion to table.

On motion of President Dages, seconded by Councilmember Perea, duly carried, **RESOLVED**, the 10:30 A.M. Hearing tabled to October 25, 2005, at 9:45 a.m., by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
Noes : None  
Absent : None

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**(2-A) BILL NO. B-117 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO THE DISPLAY OF PRODUCTS CONTAINING PSEUDOEPHEDRINE AND/OR EPHEDRINE**

City Attorney Montoy noted the ordinance was here at the request of Councilmember Westerlund, advised Fresno County's ordinance was not applicable within the city's jurisdiction, and added the police chief was supportive of the ordinance because it would mirror the county's and it would be better overall to have a county-wide approach to this problem. Councilmember Westerlund stated the county took the lead passing an ordinance and thanked them, spoke to the meth problem and the need to address it county-wide, and advised he spoke with the Chamber of Commerce and they think steps will be taken on a national/federal level. Chief Dyer spoke to meth labs and people that go into numerous establishments to purchase what they can legally and then take the products to manufacturers, stated the city was trying to be uniform with the county and minimize the chance of people purchasing and selling to meth manufacturers, and advised of pending federal legislation ("Combat Meth Act of 2005") and stated he hoped other valley cities would follow suit until the federal legislation comes into play. A motion and second was made to introduce the ordinance bill.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Discussion continued. Ms. Montoy and Chief Dyer responded to questions/comments of Councilmember Boyajian and/or clarified issues relative to when the federal law would become effective, how this ordinance will be enforced, if cold products will have to be under lock and key, there being a difference between kids buying spray paint cans and a family needing to purchase cold medicine, how individuals going from store to store will be monitored/regulated, and the benefits of the ordinance. Councilmember Calhoun advised he had a prior luncheon engagement and left the meeting at 11:46 a.m. Councilmember Perea stated this was a common sense approach, added Fresno needed to go further and get other cities and counties to adopt an ordinance, and stated it was incumbent upon Council to show leadership in the valley's meth problem. Councilmember Duncan stated this was a step in the right direction and along with President Dages presented questions relative to whether stickers with appropriate phone numbers can be made available to establishments for employees, if law enforcement has found individuals purchase these products a lot or occasionally, how long the 3-pack limit law has been in effect, and how businesses will be informed of this new ordinance.

On motion of Councilmember Westerlund, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Bill No. B-117 introduced before the City Council and laid over, by the following vote:

Ayes : Boyajian, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : Calhoun

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**146-113**

**10/11/05**

**(2-B) APPROVE RESPONSES TO THE 2004-2005 GRAND JURY REPORT**

Management Analyst Zieba gave an overview of the issue, all as contained in the staff report as submitted, and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke to the issue.

Councilmember Boyajian spoke briefly to his position on CEQA and how the city does not follow it and stated Council has the power and until the law is followed all the traffic and congestion problems would continue.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the responses to the Grand Jury Report hereby approved, by the following vote:

Ayes : Boyajian, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : Calhoun

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**LUNCH RECESS - 11:56 A.M. - 2:01 P.M.** Councilmember Calhoun arrived later.

**(2:00 P.M. #1) CONTESTED CONSENT CALENDAR:**

**(1-E) AWARD A CONTRACT TO KELLY C. BROYLES CONSTRUCTION FOR INSTALLATION OF A NEW 12" WATER MAIN IN N. CEDAR AVENUE FROM E. BULLDOG LANE TO E. BARSTOW AVENUE**

Councilmember Westerlund advised he spoke with staff about his concern that the project would occur during Fresno State football season and the huge amount of traffic associated with games, with Design Services Manager Andersen clarifying staff spoke with the contractor and advised the work would be done after Fresno State's November 10<sup>th</sup> home game and before their December 2<sup>nd</sup> home game **(5 - 0)**. A motion and second was made to award the contract. Councilmember Duncan concurred it would have been a disaster if the work had been done during home games and requested staff think about those factors in the future. Assistant City Manager Ruiz stated staff does look for various conflicts when scheduling projects and would take that into account.

On motion of Councilmember Westerlund, seconded by Councilmember Duncan, duly carried, RESOLVED, a contract for the Base Bid and Add Alternate 1 in the amount of \$153,342 hereby awarded to Kelly C. Browles for the N. Cedar water main project, by the following vote:

Ayes : Boyajian, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : Calhoun

**(1-I) RESOLUTION NO. 2005-447 - ESTABLISHING A FRESNO CITY PARKS COMMISSION TO CONDUCT A PARKS NEEDS ASSESSMENT, as amended, ADDING A CITY RESIDENCY REQUIREMENT AND EXTENDING THE DATE FOR THE**



*FINAL REPORT FROM JANUARY 31, 2006, TO MARCH 3, 2006*

Councilmember Westerlund thanked staff for the timely response to his request and stated he felt the timeline between appointing the commission and submitting the final report was too tight and he wanted to extend the date from January to March 3, 2006. A motion and second was made to adopt the resolution with the amended timeline. President Dages requested a city residency requirement be added, which was accepted by the motion-makers, and City Attorney Montoy advised the language would be added to Paragraph 1.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, **RESOLVED**, the above entitled Resolution No. 2005-447 hereby adopted, *as amended*, extending the deadline to 3/3/06 for the final report and adding a city residency requirement, by the following vote:

**146-114****10/11/05**

Ayes : Boyajian, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : Calhoun

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**(3-B) CONSIDER DIRECTION ON PROPOSED INTERIM ORDINANCE RELATING TO ZONING FOR SLAUGHTERING AND SALES OF RETAIL POULTRY AND RABBITS - COUNCILMEMBER PEREA**

Councilmember Perea advised there was currently a proposal to put a slaughterhouse in his district on a major corridor and directly abutting a neighborhood, and upon his request Planning & Development Director Yovino and City Attorney Montoy spoke to the current code provision, it being a "by right use" and difficult for the city to completely disallow it, staff's suggestion for an interim ordinance or emergency ordinance since the use was currently a matter of right, to how the provision was antiquated and out of date, and to how staff was starting to work on a comprehensive update of the zoning ordinance and how an interim ordinance was a way to address the issue. Ms. Montoy added staff would return with an ordinance on October 25<sup>th</sup> if so directed and a motion and second was made to direct staff to return with an interim ordinance. Councilmember Calhoun arrived at 2:10 p.m. during staff's testimony

Councilmember Sterling spoke briefly to the number of different slaughtering facilities in her district and to the complaints by residents on offensive odors, flies and dirt that surround neighborhoods, and added if Councilmember Perea was interested in some type of visual she would take him out into the areas and show him firsthand. Councilmember Westerlund stated he understood the concern but he wanted to make sure the city does not step on its foot economically, with Mr. Yovino clarifying the ordinance would not apply to those facilities allowed in industrial districts.

On motion of Councilmember Perea, seconded by Councilmember Duncan, duly carried, **RESOLVED**, staff directed to return with an interim ordinance relating to zoning for slaughtering and sales of retail poultry and rabbits, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages  
 Noes : None  
 Absent : None

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**(2:00 P.M. #2) CLOSED SESSION:**

**(A) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME:**

**3. JOAN DALGETY AND JACOB SMITH V. COF; DONNA HOFFMAN**

Removed from the agenda/case resolved.

**(A) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:**

**1. BOBBIE DUANE HUNSAKER V. COF, VICTOR MANUEL MONTIJO**

**2. OPERATING ENGINEERS, LOCAL UNION NO. 3, FRESNO AIRPORT PUBLIC SAFETY SUPERVISOR UNIT (FAPSSA) V. COF, AND OPERATING ENGINEERS, LOCAL UNION NO. 3, FRESNO AIRPORT POLICE AND FIREFIGHTERS**

ASSOCIATION (FAPOFA) V. COF

4. AMERICANS FOR SAFE ACCESS AND WILLIAM McPIKE V. COF

5. COF V. KATHLEEN A. SCHWANDT

**(B) PUBLIC EMPLOYEE PERFORMANCE EVALUATION - TITLE: CITY CLERK**

The City Council met in closed session in Room 2125 at the hour of 2:20 p.m. to consider the above matters and reconvened in regular open session at 3:30 p.m.

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**(3:00 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY**

**146-115**

**10/11/05**

The City Council met in joint session with the Redevelopment Agency at the hour of 3:31 p.m.

APPROVE AGENCY MINUTES OF OCTOBER 4, 2005

On motion of President Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the Agency minutes of October 4, 2005, approved as submitted.

**(A) CONSIDER MATTERS RELATING TO THE PROPOSED 2005 AMENDMENTS TO THE CONVENTION CENTER REDEVELOPMENT PLAN**

**1. RESOLUTION NO. 2005-448 - ADOPTING FINDINGS IN RESPONSE TO WRITTEN OBJECTIONS TO THE PROPOSED AMENDMENTS TO THE CONVENTION CENTER REDEVELOPMENT PLAN**

**2. BILL NO. B-118 - ORDINANCE NO. 2005-120 - (1) ADOPTING THE ENVIRONMENTAL FINDING OF CONFORMITY/MEIR PREPARED FOR THE FRESNO GENERAL PLAN FOR E.A. NO. RDA 2005-1, (2) FINDING THAT THE CONVENTION CENTER REDEVELOPMENT PLAN, AS PROPOSED TO BE AMENDED, IS CONSISTENT WITH THE GENERAL PLAN INCLUDING BUT NOT LIMITED TO THE HOUSING ELEMENT OF THE GENERAL PLAN, AND (3) AMENDING THE CONVENTION CENTER REDEVELOPMENT PLAN**

Chair Boyajian clarified the public hearing was already held and closed and it was time for council deliberations.

Redevelopment Project Manager Morgan reviewed the background of the issue and gave an extensive overview of the written objections and responses, all as contained in the staff report as submitted.

Councilmember Duncan stated there was a lot of traditional mis-information relative to eminent domain (ED) and added a Channel 30 news story last night added to that mis-information, and upon his questions Agency Director Murphey and City Attorney Montoy stated ED was rarely used, it was only permitted for blighted areas, California had strong laws for ED, it was a tool of last resort, specifics findings have to be made and specific conditions must be met to use the tool, the owner participation process must be followed, voluntary sales occur in a lot of cases, and staff has found someone not agreeing to sell their property was extremely rare. Councilmember Duncan stated this was an important general plan amendment for downtown's future and made a motion to approve staff's recommendation. Councilmember Westerlund stated he reviewed all the reports/letters/objections and considered all the evidence presented and it indicated an abundance of evidence for findings 1 through 13, and seconded the motion

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2005-448 hereby adopted, and the above entitled Bill No. B-118 adopted as Ordinance No. 2005-120, by the following vote:

Ayes	:	Calhoun, Duncan, Sterling, Westerlund, Boyajian
Noes	:	Dages, Perea
Absent	:	None

**(B) PROVIDE DIRECTION TO AGENCY STAFF (HOPE VI PROJECT) (Council and Agency action)**

**1. REVIEW RESULTS OF THE RFQ FROM DEVELOPERS TO DEVELOP A RESIDENTIAL/COMMERCIAL MIXED USE PROJECT ON APPROXIMATELY 15 ACRES IN SOUTHWEST FRESNO**

**2. PROCEED WITH NEGOTIATIONS OF A DISPOSITION AND DEVELOPMENT AGREEMENT WITH THE**

## RECOMMENDED DEVELOPER

**3. RETURN TO THE COUNCIL AND AGENCY WITH ALL RELATED DOCUMENTS FOR REVIEW AND APPROVAL**

Councilmember Sterling recused herself from the proceedings stating her family owned property in the subject area and left the meeting at 3:45 p.m. A motion and second was made to approve staff's recommendation.

Director Murphey gave an overview of the issue and recommendation, all as contained in the staff report as submitted.

James Hendrix, managing partner for the HAW group and representing the team and developer Tom Richards, stated they were appreciative of staff's efforts and the committee's recommendation, and stated project was vital to the community even though it was not that large in scope, and they were excited about it and anxious to move forward.

**146-116****10/11/05**

On motion of Councilmember Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, Agency staff directed to proceed with the negotiations of a Disposition and Development Agreement with the HAW Fifty-Six, LLC and Tom Richards, through his limited partnership, ESSAYONS, LP consistent with California Redevelopment Law, and bring all related documents for the development of the proposed site back to the Council/Agency Board for review and approval, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Perea, Westerlund, Boyajian
Noes	:	None
Absent	:	None
Recused:	:	Sterling

**( C ) COUNCIL RESOLUTION NO. 2005-449 - MAKING FINDINGS OF CONFORMITY PERTAINING TO THE ELECTION OF THE PROJECT AREA COMMITTEE (PAC) FOR THE EXISTING CHINATOWN EXPANDED REDEVELOPMENT PROJECT AND CONFIRMING THE ELECTED MEMBERS OF THE PAC IN CONNECTION WITH AMENDMENTS TO THE REDEVELOPMENT PLAN**

Councilmember Sterling returned to the meeting at 3:50 p.m. Project Manager Freeman gave an overview of the issue, all as contained in the staff report as submitted, and Councilmember Sterling spoke briefly in support and made a motion to approve staff's recommendation.

On motion of Councilmember Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution No. 2005-449 hereby adopted, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Perea, Sterling, Westerlund, Boyajian
Noes	:	None
Absent	:	None

**(D) CONSIDER MATTERS RELATING TO JENSEN/PEACH INTERSECTION TRAFFIC LIGHT IMPROVEMENTS**

**1. JOINT COUNCIL/AGENCY RESOLUTION NO. 2005-450/1666 - MAKING CERTAIN FINDINGS PURSUANT TO COMMUNITY REDEVELOPMENT LAW AND AUTHORIZING THE INSTALLATION OF PUBLIC IMPROVEMENTS**

**2. AWARD A CONTRACT TO A-C ELECTRIC COMPANY FOR TRAFFIC SIGNAL IMPROVEMENTS AT THE INTERSECTION OF JENSEN AND PEACH AVENUES (AGENCY ACTION)**

Director Murphey gave an overview of the issue, all as contained in the staff report as submitted.

President Dages advised he has been working on this project for a couple of years and it was an extremely dangerous intersection especially with the fog and even more so now with all the new development in the area, and made a motion to approve.

On motion of President Dages, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Joint Resolution No. 2005-450/1666 hereby adopted, and a contract in the amount of \$341,606 hereby awarded to A-C Electric Company for the project, by the following vote:

Ayes	:	Calhoun, Dages, Duncan, Perea, Sterling, Westerlund, Boyajian
Noes	:	None

Absent : None

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The joint bodies adjourned their meeting at 3:57 p.m. and the City Council reconvened in regular session.

**(3-A) REQUEST FOR UPDATE FROM THE CITY MANAGER ON STATUS OF AN AUGUST 16<sup>TH</sup> AGENDA ITEM DIRECTING STAFF TO APPROPRIATE A MINIMUM OF \$500,000 IN ADDITIONAL RESOURCES FOR CITY LANDSCAPING REPLACEMENT AND MAINTENANCE - COUNCILMEMBER CALHOUN**

Councilmember Calhoun stated on a 6 to 1 vote Council basically directed staff to report back with a plan and advised he has heard nothing, noted he also emailed the city manager and received no reply and did not know where the issue stood, pointed out coincidentally the Grand Jury recommended the city utilize general fund moneys to bring neglected tracts in maintenance districts up to required standards and spoke to staff's response, and questioned where the matter stood.

**146-117**

**10/11/05**

City Manager Souza stated when direction was given staff was in the early stages of an aggressive approach of attacking the median island issue, pointed out staff advised at that time they wanted to see how that program would play out and noted success was being seen with the program and explained, **(6 - 0)** and stated staff wanted to return with this item during mid-year budget review after seeing how sales and property taxes are performing and explained. Councilmember Calhoun emphasized Council asked staff to report back with a recommendation and staff should have reported back even if to just say there was no need at this time and/or there were so many dollars, added he did not appreciate Council giving a directive and him following up with an email and getting zero, and stated a lot of thought went into the issue, Council had a debate, and with no response he was forced to bring this matter forth and was disappointed. Councilmember Duncan concurred and spoke to the need to be more aggressive with the issue, stated it was frustrating to receive calls and complaints and added Council was being strongly criticized for the problems, and acknowledged the city was making tremendous efforts to fix the problem and the difference was notable but it was still very frustrating when numerous calls are received on the amount of dead plants/trees and stated that was not acceptable.

Upon question of President Dages Councilmember Calhoun stated he was not satisfied, he was hearing the city manager basically say staff will report back when they feel like it and stressed that was not council's direction, questioned if his request was out in "limbo land" and he found it very disappointing that unless Council crosses every "t" and dots every "i" it won't get done, and stated this was a finger in council's eye and added he didn't even get the courtesy of a response to his email. Mr. Souza stated this was not a situation of staff telling council what was or was not going to happen, clarified there no date specific to report back when direction was given and stated if council wanted to give a specific date staff would return by that date and present the same information and concerns he just verbalized, and relative to the email stated he searched for it and could not find it and requested Councilmember Calhoun reissue it if he could.

Upon question of Councilmember Perea Councilmember Calhoun stated he would not give direction and would leave the matter as is. Councilmember Perea questioned if he could make a motion directing staff to report back in two weeks with City Attorney Montoy clarifying the matter was scheduled only as an update, acknowledged the original motion had no date, and stated she heard the city manager state he understood council wanted a report sooner than mid year and he would do that in two weeks. Councilmember Boyajian added direction was given on a 6 to 1 vote and emphasized he did not know what else council had to do or needed to do, and questioned if council had the power to allocate this money and if the past direction/motion included amending the budget, with Ms. Montoy responding. There was no further discussion.

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**(3-C) REQUEST FOR UPDATE FROM CITY MANAGER ON STATUS OF IMPLEMENTING A MARKETING PLAN FOR ROEDING BUSINESS PARK. UPDATE SHOULD INCLUDE AN ESTIMATE FROM PUBLIC WORKS ON ADDITIONAL INFRASTRUCTURE INVESTMENT REQUIRED BY THE CITY AT THE SITE - COUNCILMEMBER CALHOUN**

Laid over to October 25<sup>th</sup> at the direction of Councilmember Calhoun.

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**(4:00 P.M.) HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S ACTION APPROVING CUP NO. C-03-265 AND ENVIRONMENTAL FINDINGS, FILED BY GURBACHAN SINGH, NORTHEAST CORNER OF W. CLINTON AND N. FRUIT AVENUES**

1. CONSIDER E.A. NO. C-03-265, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
2. RESOLUTION - DENYING APPROVAL OF CUP NO. C-03-265 (*Staff recommendation*) (**Not adopted**)
3. **RESOLUTION NO. 2005-451** - APPROVING CUP NO. C-03-265 (*Planning Commission recommendation*)

President Dages announced the time had arrived to consider the issue and opened the hearing.

Planning Manager Haro gave an in-depth PowerPoint presentation on the issue, all as contained in the staff report as submitted, and recommended Council uphold the appeal and deny the CUP. Councilmember Boyajian spoke to the issue at length including the history and background, the consistent opposition of neighbors, and the opposition of Fresno Unified's and himself.

**146-118**

**10/11/05**

Speaking to the issue were: Sonia Hall, CA Consulting, representing the applicant, support for the project; Gurbachan Singh, applicant, support; Ruthie Quinto, FUSD Chief Financial Officer, opposed; Paul Mullen, 545 W. Terrace, opposed; Harry Gil, support; Malaysia Rico, Hoover High School senior, opposed; Jane Alvarado, opposed; John Lear, support; Patricia Spenser, support; Alan Robertson, support; Maribelle Ramon-Espinosa, opposed (**7 - 0**); and Jason Flores, support.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Councilmember Duncan spoke in opposition to staff's recommendation, noted there were numerous new restaurants/businesses opening in his district that sell alcohol and are close to schools, stated he could not accept arbitrarily telling a businessman he can't compete and make better living for his family, pointed out this was a responsible businessman with a proven record, stressed there should be no tolerance for those who are un-responsible and encouraged students to target the un-responsible business owners, and reiterated to deny was unfair and un-American and made a motion to approve the CUP. Councilmember Calhoun seconded the motion and concurred stating he was going to make the same points for his district; stated the application went through the process and was reviewed by the police department and planning commission and he could not see overturning their positions of support; and stated Council could not be all things to all people and parents had a responsibility to keep the alcohol away from their kids. Councilmember Boyajian clarified Mr. Singh came in with his eyes open and knew he would not be able to sell alcohol, stressed this was the third time Mr. Singh has come back requesting to sell alcohol, and named numerous establishments in the area that sell alcohol and emphasized he has worked very hard to stabilize neighborhoods, the neighbors were opposed, and people were trying to say enough is enough. Officer Horser of the Central Policing District responded to questions of Councilmember Sterling relative to what the findings were when Mr. Singh's business was investigated, what the department's position was on the business, if other businesses have been cited for violations and what actions have been taken, and if neighbors/organizations have been as vocal as they are here with un-responsible businesses and requesting they be shut down. Councilmember Sterling clarified there has not been one citation against Mr. Singh, stressed efforts should be focused on the "bad guys", and stated Mr. Singh deserved a chance to prove to his neighbors that he is responsible.

On motion of Councilmember Duncan, seconded by Councilmember Calhoun, duly carried, **RESOLVED**, the environmental findings for the E.A. dated June 21, 2005, that the project proposal conforms to the provisions of the Fresno General Plan MEIR hereby considered, the appeal denied, and the above entitled Resolution No. 2005-451 approving CUP No. C-03-265 (planning commission recommendation) hereby adopted, by the following vote:

Ayes	:	Calhoun, Duncan, Perea, Sterling
Noes	:	Boyajian, Westerlund, Dages
Absent	:	None

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**(4:30 P.M.) HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S ACTION APPROVING VESTING TENTATIVE TRACT MAP NO. 5424 AND ENVIRONMENTAL FINDINGS, FILED BY DUNMORE HOMES ON BEHALF OF WILMER JAMES CASE AND GEORGE & SUSAN CHAMBERS, NORTH SIDE OF E. CLINTON BETWEEN N. ARMSTRONG AND N. TEMPERANCE AVENUES**

1. CONSIDER THE MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-28/R-04-89/T-5424

2. RESOLUTION NO. 2005-452 - APPROVING VESTING TENTATIVE TRACT MAP NO. 5424

President Dages announced the time had arrived to consider the issue and opened the hearing.

Planner Rodriguez gave an overview of the issue, all as contained in the staff report as submitted, and advised the applicant has agreed to the conditions of a masonry wall and a 50 foot setback and recommended the appeal be upheld and the tract map be approved with the two conditions.

Dirk Poeschel, representing the applicant, confirmed agreement was reached on the conditions and stated with the conditions the appeal was withdrawn.

Upon call, no one else wished to be heard and President Dages closed the hearing.

146-119

10/11/05

Mr. Rodriguez and City Attorney Montoy responded to questions of Councilmember Westerlund and/or clarified issues relative to where the matter was procedurally since the appeal was withdrawn, why the matter was here this date, and why the entire matter was not dropped from council's agenda since conditions were agreed to. Councilmember Perea left the meeting during questioning and was absent for the remainder. A motion and second was made to approve staff's recommendation.

Councilmember Calhoun advised he spent a lot of time trying to figure this matter out and he found it very frustrating to have it brought back like this, and at the risk of saying the process was sloppy stated he hoped it would never happen again. Councilmember Boyajian noted there would be 116 lots, an EIR was not being conducted, and he did not support boot-strapping an EIR; expressed concern with staff using the same traffic engineering firm and explained; and stated most development projects are sloppy because the city does not follow the law or conduct EIRs.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the June 14, 2005, Council action adopting the environmental finding of a mitigated negative declaration for the E.A. dated May 4, 2005, hereby affirmed, the appeal upheld, and the above entitled Resolution No. 2005-452 hereby adopted, by the following vote:

Ayes : Calhoun, Duncan, Sterling, Dages  
Noes : Boyajian, Westerlund  
Absent : Perea

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ADJOURNMENT

There being no further business to bring before the City Council, the hour of 5:27 p.m. having arrived and hearing no objections, President Dages declared the meeting adjourned.

Approved on the 25th day of October, 2005.

\_\_\_\_\_/s/\_\_\_\_\_  
Mike Dages, Council President

ATTEST: \_\_\_\_\_/s/\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk

**146-120**

**10/11/05**